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(ii) The credit union determines that the appraisal conforms to the requirement of this regulation and is otherwise acceptable.

[55 FR 30207, July 25, 1990, as amended at 60 FR 51895, Oct. 4, 1995]

§ 722.6 Professional association membership; competency.

(a) *Membership in appraisal organization.* A state-certified appraiser or a state-licensed appraiser may not be excluded from consideration for an assignment for a federally related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) *Competency.* All staff and fee appraisers performing appraisals in connection with federally related transactions must be state-certified or -licensed as appropriate. However, a state-certified or -licensed appraiser may not be considered competent solely by virtue of being certified or licensed. Any determination of competency shall be based upon the individual's experience and educational background as they relate to the particular appraisal assignment for which he or she is being considered.

§ 722.7 Enforcement.

Credit unions and institution-affiliated parties, including staff appraisers and fee appraisers, may be subject to removal and/or prohibition orders, cease-and-desist orders, and the imposition of civil money penalties pursuant to section 1786 of the Federal Credit Union Act, or any other applicable law.

PART 723—MEMBER BUSINESS LOANS

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AUTHORITY: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

SOURCE: 63 FR 51799, Sept. 29, 1998, unless otherwise noted.

§ 723.1 What is a member business loan?

(a) *General rule.* A member business loan includes any loan, line of credit, or letter of credit where the borrower uses the proceeds for the following purposes:

- (1) Commercial;
- (2) Corporate;
- (3) Other business investment property or venture; or
- (4) Agricultural.

(b) *Exceptions to the general rule.* The following is not a member business loan:

(1) A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence;

(2) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

(3) Loan(s) to a member or an associated member which, when added together, are equal to or less than \$50,000;

(4) A loan where a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or

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(5) A loan granted by a corporate credit union to another credit union under part 704 of this chapter.

§ 723.2 What are the prohibited activities?

(a) Who is ineligible to receive a member business loan? You must not make a member business loan to the following:

(1) Any member of the board of directors who is compensated as such;

(2) Your chief executive officer (typically this individual holds the title of President or Treasurer/Manager);

(3) Any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager);

(4) Your chief financial officer (Comptroller); or

(5) Any associated member or immediate family member of anyone listed in paragraphs (a) (1) through (4) of this section.

(b) Equity agreements/joint ventures. You may not grant a member business loan if any additional income received by the credit union, senior management employees, or any member of the board of directors who is compensated as such, is tied to the profit or sale of the business or commercial endeavor for which the loan is made.

§ 723.3 What are the requirements for construction and development lending?

Unless the Regional Director grants an exemption, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements.

(a) The aggregate of all construction and development loans must not exceed 15% of reserves, (excluding the Allowance for Loan Losses account). To determine the aggregate, you may exclude any portion of a loan:

(1) Secured by shares in the credit union;

(2) Secured by deposits in another federally insured financial institution;

(3) Fully or partially insured or guaranteed by any agency of the federal government, state, or its political subdivisions; or

(4) Subject to an advance commitment to purchase by any agency of the federal government, state, or its political subdivisions;

(b) The borrower must have a minimum of 35% equity interest in the project being financed; and

(c) The funds may be released only after on-site, written inspections by independent, qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

§ 723.4 What are the other applicable regulations?

The provisions of § 701.21(a) through (g) of this chapter apply to member business loans to the extent they are consistent with this part.

§ 723.5 How do you implement a member business loan program?

The board of directors must adopt specific business loan policies and review them at least annually. The board must also utilize the services of an individual with at least two years direct experience with the type of lending the credit union will be engaging in. Credit unions do not have to hire staff to meet the requirements of this section; however, credit unions must ensure that the expertise is available. A credit union can meet the experience requirement through various approaches. For example, a credit union can use the services of a credit union service organization, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.

§ 723.6 What must your member business loan policy address?

At a minimum, your policy must address the following:

(a) The types of business loans you will make;

(b) Your trade area;

(c) The maximum amount of your assets, in relation to reserves, that you will invest in business loans;

(d) The maximum amount of your assets, in relation to reserves, that you will invest in a given category or type of business loan;